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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,871	03/09/2001	Jesse H. Gaytan	40700	6727

1609 7590 08/13/2003

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

09

Application No.

801871

Applicant(s)

GATON

Examiner

MBR Long

Group Art Unit

1516

8

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 6/30/03
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-41 is/are pending in the application.
- Of the above claim(s) 1-31 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 32-41 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-41 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1616

Applicant's election with traverse of Group II in Paper No. 7 is acknowledged. The traversal is on the ground(s) that search requires process search. This is not found persuasive because for reasons of record; we do not see the necessity of a process search, many process could be presumed to lead to the composition, and search of all would be burdensome.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-31 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At claim 36, "Derivatives" here, is indefinite, it is not clear if carbon dioxide and water, already cited, are envisioned as derivatives of the water, organic solvents, alcohols-etc.

At claim 32, 41; the weight % is not stated as to what the % is based on.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1616

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 32, 34, 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Kishino et al 4150155.

See col.9, lines 3, 41-53: the instant lubricant-polyethylene oxide ethers of fatty alcohols-polyalkylene oxides-are present in an organic solvent as dispersant, at less than 5%, with phosphoramidothioate solids (lines 55-61, col.9). Organic solvents are alcohols-ie methanol, propanol, dimethylsulfoxide, aceto nitrite, acetone (col.8, lines 50-56).

Claims 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan et al 5100667.

Acephate, (col.3) with the instant lubricant-pluronic, (col.4, lines 5-12, 33-37, 65, 67) with small amounts of water solvent (col.5, top), with silica anti caking, if desired (col.5, bottom) as a dried granule is disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 308-2927. The fax phone numbers for

Application/Control Number: 09/801,871

Art Unit: 1616

the organization where this application or proceeding is assigned are 308-4556 for regular communications and 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.



Levy/tgd  
August 8, 2003

NEIL S. LEVY  
PRIMARY EXAMINER